

**FLOOR SCHEDULE FOR THURSDAY, DECEMBER 5, 2013**

| HOUSE MEETS AT:                        | FIRST VOTE PREDICTED:     | LAST VOTE PREDICTED:     |
|--|---------------------------|--------------------------|
| <b>9:00 a.m.: Legislative Business</b> | <b>12:00 – 12:30 p.m.</b> | <b>12:30 – 1:00 p.m.</b> |
| <b>Five “One Minutes”</b>              |                           |                          |

**H.R. 3309 – Innovation Act (Rep. Goodlatte – Judiciary) (One Hour of Debate).** This bill would amend provisions of federal law relating to patents, including the Patent Code codified in USC title 35, with the objective of reducing the abusive litigation practices in patent cases that are used by patent assertion entities (PAEs) – nicknamed “patent trolls.”

The bill seeks to curb abusive patent litigation techniques by directly amending federal judicial procedure rules in patent infringement lawsuits. The bill would amend rules relating to demand letters, pleadings, fee shifting, disclosure of real parties in interest, joinder of parties, end-user stays, and discovery. The bill also directs the Judicial Conference to establish new rules on the timing and cost sharing of discovery, directs the U.S. Patent and Trademark Office to create a public database of asserted patent claims, and makes a number of technical corrections to the 2011 Leahy-Smith America Invents Act.

The Rule, which was adopted yesterday, makes in order 7 amendments, each debatable for 10 minutes, and 1 amendment in the nature of a substitute, debatable for 20 minutes, equally divided between the offeror and an opponent. The amendments are:

**Goodlatte Amendment.** Makes technical and clarifying changes. Under Section 3(d), clarifies that the exception in paragraph one applies to biosimilars, and adds an exception for actions seeking relief based on competitive harm. Also makes clarifying changes under Section 6(d) that ensure foreign courts cannot terminate licenses to U.S. Intellectual Property. Extends time required by agencies to complete the various studies and reports required in the bill.

**Watt Amendment.** Aligns the fee shifting provision in the underlying bill more closely aligned with the Equal Access to Justice Act by expanding judicial discretion. Allows a judge to consider dilatory or other abusive tactics by the prevailing party in determining whether to reduce or deny a fee award.

**Polis/Chaffetz/Marino/Connolly Amendment.** Requires claimants to disclose their ultimate parent entity in any pre-suit notification to establish a willful infringement claim.

**Massie Amendment.** Strikes Section 5, the "customer-suit exception" provision, which directs courts to stay actions against a customer related to infringement of a patent involving a product or process if certain requirements are met.

**Jackson-Lee Amendment #5.** Expands covered customer definition of Section 5 to all small businesses as defined by the Small Business Administration--those with annual revenue of \$25 million or less.

**Jackson-Lee Amendment #6.** Requires the Director to conduct a study regarding the economic impact of the changes in current law resulting from Sections 3, 4, and 5 of the bill on the ability of individuals and small businesses owned by women, veterans, and minorities to assert, secure, and vindicate their constitutionally guaranteed exclusive right to their inventions and discoveries.

**Rohrabacher Amendment.** Strikes Section 9(a) from the bill. Section 9(a) would repeal Section 145 of title 35, United States Code, which allows a patent applicant dissatisfied with a PTO decision to appeal that decision under certain circumstances directly to the Federal District Court.

**Conyers/Watt Amendment in the Nature of a Substitute.** Promotes transparency in patent ownership; protects customers who are targeted in infringement suits; directs the PTO to develop educational resources for small businesses; instructs the PTO and others to prepare reports on several issues including the use of deceptive demand letters.

**Bill Text for H.R. 3309:**

[PDF Version](#)

**Background for H.R. 3309:**

[House Report \(HTML Version\)](#)

[House Report \(PDF Version\)](#)



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## The Daily Quote

"Congress is on pace to have its least productive year in modern history, earning a "do-nothing" label and adding another unwanted statistic to a body already facing chronically low approval ratings... So far, 56 bills have been signed into law in the first session of the 113th Congress. Assuming legislators don't pick up the pace next year -- and the smart money says they won't as the midterms draw near -- this will become the least productive Congress in at least the last 40 years, according to a CNN analysis of congressional records. Is the fact that fewer bills have become law necessarily a bad thing? That depends on your point of view. But representatives and senators on both sides of the aisle readily acknowledge that some major issues have not been addressed. Congress hasn't passed a budget, among other things. None of the 12 annual spending bills has made it to the President's desk. We don't have a new farm bill. Immigration reform is stalled. Tax and entitlement reform are dead in the water. Adding insult to injury, in October the federal government had its first partial shutdown in nearly two decades."

- CNN, 12/4/13